

5/035/017

ident

fire captain

plied for a state  
statute, howev-  
been no doubt  
way. Such per-  
e of traffic flag-  
is.  
ly had started a  
as a sideline to  
with Six States  
were hired by Mi-  
er of the Canyon  
akfast. Bachman  
Lockes to remove  
rees on his prop-  
vest of Pineview  
ees would not fall

# Fight Over Canyon Quarry Continues in Court

Residents argue LDS Church granite mining violates ordinance; church says residents have no standing

BY LINDA FANTIN

THE SALT LAKE TRIBUNE

If a figurine falls in the forest, and no one is there to see it, can the LDS Church be held accountable? What about the county planning board?

It is less of a philosophical riddle than a legal question, and the answer could make the difference in a high-profile lawsuit.

Karen and Bruce Cunningham are suing to stop The Church of Jesus Christ of Latter-day Saints from mining granite on church property in Little Cottonwood Canyon. The Cunninghams, who live within 1,700 feet of the church property, claim the project contradicts canyon zoning ordinances and is therefore illegal.

On Monday, the couple's attorney argued that Salt Lake County had no authority to overlook canyon-protection laws, while church attorney David Wahlquist tried to show the Cunninghams had no business being in court.

To have standing, the Cunninghams must prove they have suffered sufficiently more than the average person.

"[Karen Cunningham] lacks any damage upon which she can make a complaint," Wahlquist said, urging 3rd District Judge Stephen

Henriod to dismiss the suit.

During the first day of the two-day trial, Cunningham described the noisy blasts as "a sonic boom, only longer." She claimed the vibrations have caused a glass, a plate and a figurine to fall from shelves in her home.

But she later testified that she discovered the damage upon returning home from work and that no one witnessed the items falling. Wahlquist also whittled away at Cunningham's claims that the project caused muddy water to pour onto her property during rainstorms. Silt had piled up in front of her garage even before contractors began grading roads to reach the granite, Cunningham acknowledged.

She also said no rocks had tumbled down the hill and the project has not limited access to her property.

All this may make the Cunninghams look like whiners, but it has nothing to do with the legal issues at hand, said their attorney, Cullen Battle. He accused church and county lawyers of launching a public-relations campaign instead of a court fight.

"They are trying to make the magnitude of the project's impact the main focus of the case," he said. "The real issue is whether the church is entitled to a conditional-use permit

given the terrain."

In approving the project, the county Planning Commission insisted the plans conform to all aspects of The Foothills and Canyons Overlay Zone. That ordinance prohibits roads that cross slopes in excess of 30 percent where those sections total 10 percent of the entire road or stretch for 100 continuous feet. Evert Lawton, an associate professor of civil engineering at the University of Utah, testified that both roads associated with the granite project grossly violate those slope standards.

J.D. Johnson, the county's director of Development Services, said planning commissioners were aware that the roads violated slope standards, but acknowledged that his staff never determined to what degree. Johnson later contradicted himself when he testified that he did not submit a required written report detailing the degree to which the overlay ordinance was breached because "we felt there were no areas of noncompliance."

He recommended approval because the roads were temporary, and without them, the church would be unable to access its granite, which it is using on a downtown Salt Lake City assembly hall it is building. The granite matches that used on the LDS Salt Lake Temple.

The trial resumes Wednesday.

## West Turns Against Off-Roaders

Watercraft also facing severe new restrictions

BY GREG BEACHAM

THE ASSOCIATED PRESS

The West was once their playground, but the tide of public opinion and government policy is turning against users of off-highway vehicles (OHVs) and personal watercraft.

Environmentalists, safety advocates and federal land managers have won a number of recent fights to keep the machines out of traditional recreation areas and established wilderness alike.



Craig Hansell/The Salt Lake Tribune

Watercraft riders and off-roaders say their freedom to roam is being curtailed. In the past eight months, three recreation areas have been partially or completely closed to such traffic.

aid his colleagues'  
ent in small towns  
aid, promising his  
can be done in an  
anner.  
ever, are still sore  
ntial development  
h, near Zion Na-  
locals wanted the  
1 easement as un-